

ORDINANCE NO. 1043

AN ORDINANCE ANNEXING INTO THE CITY OF STAYTON CERTAIN REAL PROPERTY LOCATED ON FERN RIDGE ROAD AND CHANGING THE ZONING OF THE PROPERTY FROM MARION COUNTY URBAN TRANSITIONAL (UT) TO CITY OF STAYTON MEDIUM DENSITY RESIDENTIAL (MD)

WHEREAS, Gene Jones has initiated annexation of that certain real property located in the southwest quarter of Section 2, Township 9 South, Range 1 West, Willamette Meridian, Marion County, Oregon, more particularly described in Exhibit A attached hereto and incorporated herein, and further illustrated on a surveyor's plat shown in Exhibit B attached hereto and incorporated herein, and shown as Parcels 500 and 600 on the excerpt of Marion County Assessor's Map 091W02 shown in Exhibit C attached hereto and incorporated herein;

WHEREAS, Robert H. Miller, trustee of the Robert H. Miller Trust, Beverly M. Cox and Richard F. Cox, trustees of the Beverly M. Cox Living Trust, Dan Wagner, Christine L. Miller, Margaret A. Williams, and Ronald J. Williams and Margaret A Williams, trustees of the Williams Living Trust, joint owners of the property, have consented to the annexation of the property;

WHEREAS, on October 14, 2019, pursuant to ORS 222.125 and Stayton Municipal Code (SMC) Section 17.12.210, Gene Jones filed with the City of Stayton, Oregon, an annexation application, an application for Comprehensive Plan Amendment from Residential to Commercial, and a request to assign Interchange Development zoning to the annexed territory;

WHEREAS, on January 14, 2020, the applicant withdrew the application for Comprehensive Plan Amendment, and requested Medium Density Residential zoning be applied to the annexed territory;

WHEREAS, the applicant's revised proposal is to annex the property with the intent of constructing a mobile home park;

WHEREAS, a public hearing was held on the application before the Stayton Planning Commission on December 9, 2019 and the hearing was continued until January 27, 2020;

WHEREAS, the territory to be annexed is contiguous to the City Limits on three sides;

WHEREAS, the territory to be annexed is currently zoned Urban Transition (UT-20), and the applicant has requested that the territory to be annexed be zoned Medium Density Residential in accordance with the Stayton Comprehensive Plan Map;

WHEREAS, the Stayton City Council held a public hearing as required by law on March 2, 2020;

WHEREAS, the Stayton City Council makes findings of fact regarding the application as contained in Exhibit D attached hereto and incorporated herein;

WHEREAS Chapter 51 of the Oregon Laws of 2016 requires the City Council to finalize the annexation and not forward the application to the voters of the City as required by City Charter and SMC Section 17.12.210.2.a.2);

WHEREAS, the Stayton City Council concludes, based on the findings of fact contained in Exhibit C, that the application meets the criteria for approval in SMC 17.12.210.5; and

WHEREAS, the Stayton City Council concludes, based on the findings of fact contained in Exhibit C, that the appropriate zoning for the territory to be annexed is Medium Density Residential in order to assist City meet its goal of between 5 and 6 housing units per acre of land zoned residential;

NOW THEREFORE, the City of Stayton ordains:

Section 1. Pursuant to ORS 222.125, the Stayton City Council hereby proclaims the annexation to the City of Stayton, Oregon, of territory in the southwest quarter of Section 2, Township 9 South, Range 1 West, Willamette Meridian, Marion County, Oregon, the legal description of which is described in Exhibit A, which is attached hereto and by reference incorporated herein.

Section 2. Pursuant to ORS 222.005 the Stayton City Recorder shall provide by certified mail to all public utilities, telecommunication facilities, and franchise holders operating within the City a written notice of each site address to be annexed as recorded on the Marion County assessment and tax rolls a legal description and map of the proposed boundary change, and a copy of this Ordinance. This notice shall be mailed within (10) ten working days of the passage of this Ordinance.

Section 3. Pursuant to ORS 222.010 the Stayton City Recorder shall, within ten (10) days of the passage of this Ordinance, send to the Marion County Clerk and Marion County Assessor a report of the annexation including a detailed legal description of the new boundaries established by the City.

Section 4. Pursuant to ORS 308.225(2) the Stayton City Recorder shall provide to the Oregon Department of Revenue a copy of this Ordinance, containing the legal description and map of the territory being annexed.

Section 5. Pursuant to ORS 222.177 the Stayton City Recorder shall provide to the Oregon Secretary of State a copy of this Ordinance, containing the legal description and map of the territory being annexed, and a copy of documents indicating consent of the property owners.

Section 6. The Stayton Official Zoning Map is hereby amended to include the annexed territory as Medium Density Residential, with the Natural Resources Overlay District applying within 100 feet of Lucas Ditch.

Section 7. Upon adoption by the Stayton City Council and the Mayor's signing, this Ordinance shall become effective 30 days after the date of signing and then only if no appeal to the Oregon Land Use Board of Appeals (LUBA) is timely filed. In the event of a timely appeal to LUBA, this decision shall not become effective until the LUBA appeal is finally resolved, including any appeals from the decision of LUBA.

ADOPTED BY THE CITY COUNCIL this Second day of March, 2020.

CITY OF STAYTON

Signed: _____, 2020

BY: _____
Henry A Porter, Mayor

Signed: _____, 2020

ATTEST: _____
Keith D. Campbell, City Administrator

EXHIBIT A, Annexation Area

Commencing at a 3" Brass Cap being the section corner of Sections 2, 3, 10, and 11, located in the Southwest quarter of Section 2, Township 9 South, Range 1 West, of the Willamette Meridian, City of Stayton, Marion County, Oregon, Thence North 00°50'03" West 30.00 Feet to the True Point of Beginning; thence along the North right of way line of Fern Ridge Road North 89°01'20" East 901.88 feet to a 3/4" iron rod at the Southwest corner of a Tract recorded in Reel 3640, Page 012, Marion County Deed Records; thence along the west line of said Tract North 00°58'13" West 705.01 feet to a 3/4" iron pipe on the Southerly right of way line of North Santiam Highway No. 22; thence along the said right of way line the following three calls, North 61°16'37" West 13.96 feet to a 5/8" iron rod; North 66°09'53" West 400.51 feet to a 5/8" iron rod; North 63°18'29" West 591.00 feet; thence South 00°50'03" East 1154.46 feet to the Point of Beginning and containing 19.10 acres of land more or less.

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EXHIBIT B, Map of Annexation Area

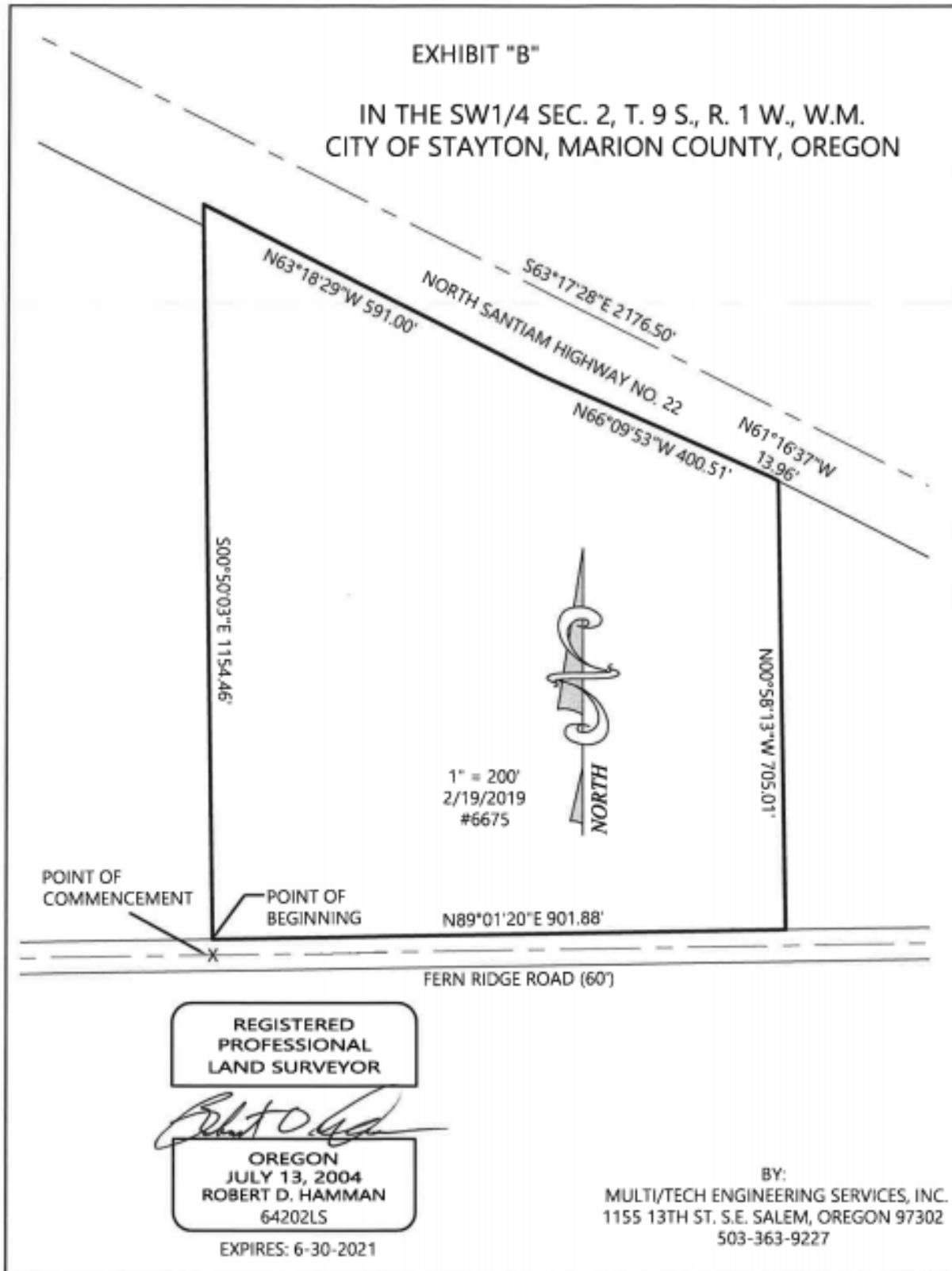


EXHIBIT C, Excerpt From Marion County Assessors Map 091W02
Showing Territory Being Annexed

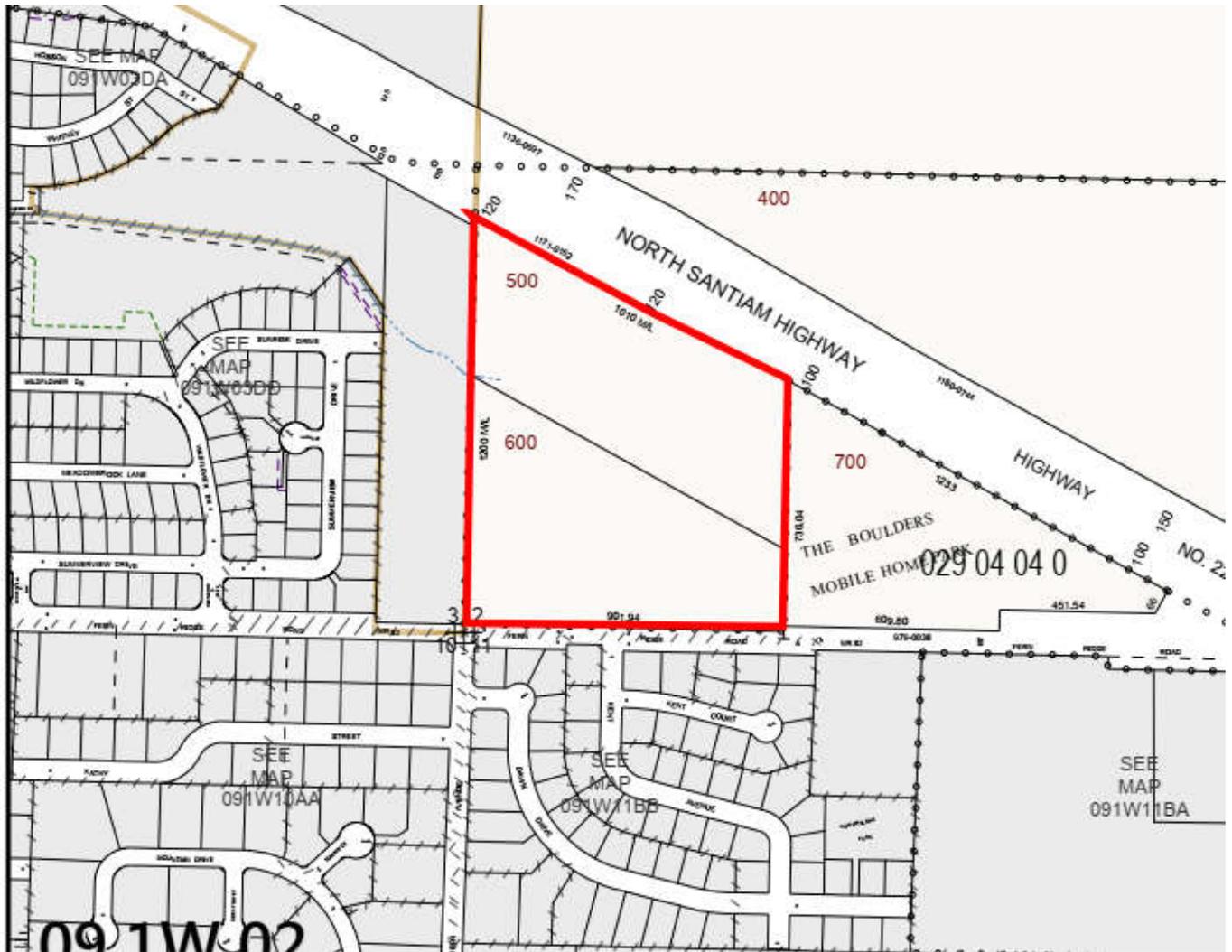


EXHIBIT D, CITY COUNCIL FINDINGS OF FACT
LAND USE FILE #11-07/19

A. EXISTING CONDITIONS

1. The owners of the property are the Robert H Miller Trust, Beverly M Cox Living Trust, Dan Wagner, Christine L Miller, Margaret A Williams, and Williams Living Trust.
2. The applicant is Eugene Jones, who has submitted a copy of a sales agreement.
3. The property can be described as: Township 9, Range 1 West of the Willamette Meridian, Section 2, Tax Lots 500 and 600. Tax Lot 600 is addressed as 13601 Fern Ridge Rd, Stayton.
4. The property is currently outside of the City Limits and zoned Marion County Urban Transition (UT-20). The property is designated as Residential by the Stayton Comprehensive Plan Map.
5. The property is located on Fern Ridge Rd and also has frontage on State Highway 22. The property is approximately 19.1 acres in area with approximately 902 feet of frontage on Fern Ridge Rd.
6. State Highway 22 is a limited access highway and there is no access permitted from the property to State Highway 22.
7. The property to the west is inside the City Limits, is zoned Public/Semi-Public, was annexed in 1977, and is developed as a church. The properties to the south and across Fern Ridge Rd are located inside the City Limits, are zoned Low Density Residential, were annexed in 1953, and are developed with single family detached dwellings. The property to the east is located inside the City Limits, is zoned Medium Density Residential, was annexed in 1992, and is developed as a mobile home park. The property to the north and across State Highway 22, is zoned Exclusive Farm Use, and is farmland.
8. The property is currently vacant, with only a small storage building on the property.
9. The property is traversed by Lucas Ditch.

B. PROPOSAL

The proposal is to annex approximately 19.1 acres of land into the City. The applicant had also applied for a Comprehensive Plan Map amendment from Residential to Commercial. The application for Comprehensive Plan Map amendment was withdrawn on January 14, 2020. Though the applicant has not submitted an application for development approval, the application for annexation was accompanied by a conceptual plan for a recreational vehicle park. With the withdrawal of the Comprehensive Plan Map amendment application, the applicant submitted a conceptual plan for the future development of a mobile home park.

C. AGENCY COMMENTS

The following agencies were notified of the proposal: City of Stayton Public Works, Stayton Cooperative Telephone Company, Pacific Power, NW Natural Gas, Stayton Fire District, Marion County Public Works, Marion County Planning Division, Santiam Water Control District, Oregon Department of Transportation, and the North Santiam School District.

Marion County Planning Division replied with no comment. Comments were received from the Stayton Public Works Department through the City Engineer, from the City's transportation engineering consultant, and from Marion County Public Works. These comments are incorporated into the findings

below. The comments from Marion County Public Works addressed future development of the property and were not relevant to these applications.

D. PUBLIC COMMENTS

The Planning Department notified all owners of property within 300 feet of the subject property at least twenty days prior to the December 9 public hearing. The applicant posted a city-supplied sign on the property. Written comments from one individual were received prior to the public hearing. Where these comments addressed the review criteria for the applications, they are reflected in the findings below, but the comments mostly addressed future development of the property and stormwater impacts.

Testimony was received from 13 individuals at the December 9 public hearing. All members of the public spoke in opposition to the Comprehensive Plan Map amendment and the establishment of commercial use on the subject property. Whereas the application for Comprehensive Plan map amendment has been withdrawn the details of that testimony is not included below.

Following the December 9 public hearing written comments were received from the Fair Housing Council of Oregon and Housing Land Advocates. These comments were regarding the Comprehensive Plan map amendment and therefore are not detailed below.

The Planning Department notified all owners of property within 300 feet of the subject property at least ten days prior to the January 27 continuation of the public hearing. The applicant posted a city-supplied sign on the property.

Testimony was received from eight individuals at the January 27 continuation of the public hearing. No testimony was expressed directly opposed to the annexation. Testimony was offered regarding the requested zoning, with concern being expressed regarding the development of duplexes, about the applicant again changing their plans, about impact of development on the footpath in nearby neighborhood and about possible stormwater impacts from development.

E. ANALYSIS

Annexation applications are required to satisfy approval criteria contained within Stayton Municipal Code (SMC) Title 17, Section 17.12.210. The amendment of the Official Zoning Map, required to assign a zone to the newly annexed territory, is required to satisfy the approval criteria contained within SMC Section 17.12.180.

F. REVIEW CRITERIA

Section 17.12.180.6 Official Zoning Map Amendment Approval Criteria. Pursuant to SMC 17.12.180.6.b the following criteria must be demonstrated as being satisfied by the application for Zoning Map amendment:

- 1) *The proposed zone is consistent with the Comprehensive Plan map designation for the subject property unless a Comprehensive Plan Map amendment has also been applied for and is otherwise compatible with applicable provisions of the Comprehensive Plan.*

Finding: The applicant has requested Medium Density Residential be assigned upon annexation. The property is designated Residential by the Comprehensive Plan Map. The Comprehensive Plan Map also indicates that a Natural Resource Protection District will be applied within 100 feet of Lucas Ditch.

- 2) *Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.*

Finding: There is a 10-inch sewer main located partially within a utility easement on the subject property and partially within the Fern Ridge Rd right of way along the entire length of the subject property. There is a 10-inch and 12-inch sewer main located in a utility easement along the west side of the subject property. There is a 6-inch water main located on the south side of Fern Ridge Rd. The Public Works Department has commented that the Water Master Plan calls for construction of a 16-inch water main along the north side of Fern Ridge Road connecting to the existing 16-inch mains located in the street right of way to both the east and west of the subject property. The Stayton Fire District, North Santiam School District and the Stayton Police Department were notified of the application. No comments were received from these agencies.

- 3) *Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).*

Finding: The City's 2019 Transportation System Plan assumed development of this property as residential.

- 4) *The purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan.*

Finding: Policy HO-1 calls for the City to encourage development of housing that meets the needs of all income groups of existing and future residents. The action to implement this policy is to assure that an adequate supply of land in all residential zones is available for development within the City. Staff reports that there are currently 69 vacant lots reasonably available for development within the LD zone, of which 16 are large enough to be further divided and that there are 15 vacant lots in the MD zone, of which seven are large enough to be further divided. Further, the Comprehensive Plan notes that the established residential density guideline for Stayton is between 5 and 6 housing units per gross acre of residentially zoned land. During the period between 2000 and the drafting of the Comprehensive Plan the subdivisions recorded were at a density of only 2.8 units per acre. Since the time of drafting the comprehensive plan only one additional subdivision has been platted, with a density of 3.7 units per acre. Assigning MD zoning would assist the City meet its density goal.

- 5) *Balance is maintained in the supply of vacant land in the zones affected by the zone change to meet the demand for projected development in the Comprehensive Plan. Vacant land in the proposed zone is not adequate in size, configuration or other characteristics to support the proposed use or development. A Zone Map Amendment shall not eliminate all available vacant land from any zoning designation.*

Finding: The Comprehensive Plan projects that 70% of the new housing units will be single-family detached, 15% of the new housing units will be single-family attached or duplexes, and that 13% will be multifamily. The proposed MD zoning would potentially allow single family attached, duplexes, triplexes and a mobile home park. By assigning MD zoning to this parcel the City will be providing for a slightly higher density and providing the potential for housing types other than single family detached.

- 6) *The proposed zone amendment satisfies applicable provisions of Oregon Administrative Rules.*

Finding: Notice of the proposed amendment was provided to the Department of Land Conservation and Development on October 29, more than 35 days prior to the Planning Commission's hearing.

7) *The physical characteristics of the property proposed for rezoning are appropriate for the proposed zone and the potential uses allowed by the proposed zone will not have an adverse impact on the surrounding land uses.*

Finding: The property is gently sloping and would allow for a wide variety of development opportunities. Though the applicant has not submitted a concurrent application for site plan review approval, the applicant has indicated an intent to develop a mobile home park and submitted a conceptual plan for that development. The property is traversed by Lucas Ditch and has a seasonal drainage swale feeding Lucas Ditch. The Local Wetland Inventory indicates significant wetlands are on the property along Lucas Ditch and the seasonal drainage from Fern Ridge Rd to Lucas Ditch.

The property to the west is a church. The land adjacent to Highway 22, on the northeast of the highway, is farmland. The property to the east is a mobile home park. To the south, across Fern Ridge Rd, are single family dwellings.

Annexation Criteria. Pursuant to SMC 17.12.210.4 the following criteria must be demonstrated as being satisfied by the application:

a. *Need exists in the community for the land proposed to be annexed.*

Finding: The 2013 Stayton Comprehensive Plan update included a Buildable Lands Inventory (BLI). The 2013 BLI provides the following information on projected growth and need for additional land in the community. At that time there were 114 lots comprising 106 acres of vacant land inside the City limits in the Low, Medium, and High Density Residential Zones. The projected population for the City in 2030 (at a growth rate of 1.7%) was 11,359 people, requiring an additional 1,281 dwellings. To meet that need, the City Comprehensive Plan indicates the expected need of additional 320 acres of residential to be annexed into the City. Since the time that analysis was conducted, the City has annexed 38 acres of residential land.

Staff has calculated approximate information on current buildable lands as follows. There are currently 81 vacant lots totaling 110 acres within the City limits that are residentially zoned.

Only two subdivisions have been platted in the past 5 years. Four subdivisions have been platted in the past 10 years. The total number of lots in each and the current status is shown in the table below.

Recent Subdivisions in Stayton

Subdivision Name	Year Platted	No of Lots	Existing Homes	Vacant Lots
Phillips Estates, Phase 2	2014	26	5	21
Wildlife Meadows	2017	44	41	5

In addition, there is a possible third phase of the Phillips Estates subdivision, accounting for a potential of 10 lots, and the Lambert Place subdivision with 51 lots, and the Virginia Terrace subdivision with four lots, that have received preliminary plan approval from the Planning Commission but not yet been platted with Marion County.

Though there are 81 parcels totaling 110 acres in the City and residentially zoned, staff estimates that there are only 74 parcels totaling 60 acres of vacant property within the City limits that is residentially zoned and reasonably available for development. Lack of utility availability, ownership by a governmental entity, wetlands and floodplain issues constrain the ability of the remaining land to be available for development. Within the LD zone there are 59 lots reasonably available for development. In the MD zone there are 14 vacant lots. There is only one vacant lot in the High Density Residential Zone. With 4 acres, it has the potential capacity for 50 to 60 dwelling units.

The City's growth rate from 2000 and 2019 has been at an average annual rate of about 0.8%, with a population change of 1,054 people. The Marion County Coordinated Growth projection for 2030 is 11,360, reflecting a 1.7% average annual growth rate for the next twenty years. At a 1.7% growth rate from the most recent certified population estimate of the City, there would be the need for 495 new dwellings units over the next 10 years. At an average of 5 units per acre for single family development, there would be the need for all of the existing vacant land in the City and 40 acres of land beyond the vacant land considered reasonably available for development to accommodate this number of homes.

b. The site is or is capable of being serviced by adequate City public services, including such services as may be provided subject to the terms of a contract annexation agreement between the applicant and the City.

Finding: There is a 10-inch sewer main located partially within a utility easement on the subject property and partially within the Fern Ridge Rd right of way along the entire length of the subject property. There is a 10-inch and 12-inch sewer main located in a utility easement along the west side of the subject property. There is a 6-inch water main located on the south side of Fern Ridge Rd. The Public Works Department has commented that the Water Master Plan calls for construction of a 16-inch water main along the north side of Fern Ridge Road connecting to the existing 16-inch mains located in the street right of way to both the east and west of the subject property. The Public Works Department has also commented that dedication of right way will be required at the time of development, in that the existing Fern Ridge Rd right of way does not meet Public Works Design Standards for a major collector street.

c. The proposed annexation is property contiguous to existing City jurisdictional limits.

Finding: The property is adjacent to the existing City Limits on three sides. The Foothills Church property was annexed in 1977. The Boulders Mobile Home Park property was annexed in 1992. The north half of the Fern Ridge Rd right of way was annexed in 2014.

d. The proposed annexation is compatible with the character of the surrounding area and complies with the urban growth program and the policies of the City of Stayton.

Finding: The surrounding area is developed with residential properties and a church. The applicant has submitted a conceptual plan for the development of a mobile home park.

e. The annexation request complies or can be made to comply with all applicable provisions of state and local law.

Finding: The criteria of ORS 222 apply to the adoption of an annexation ordinance which is a City Council action. The property owners have consented to the annexation. Chapter 51 of the Oregon Laws of 2016 requires a city to annex the territory without submitting the proposal to the electors if 1) the territory is within the urban growth boundary, 2) the territory will be subject to an acknowledged comprehensive plan, 3) the territory is contiguous to the city limits, and 4) the proposal conforms to all other requirements of the city's ordinances. The City of Stayton Comprehensive Plan was acknowledged in 2013. The territory to be annexed is within the City's urban growth boundary. The territory is contiguous to the city limits on three sides. The other findings contained herein demonstrate the requirements of the City's code have been met.

f. If a proposed contract annexation, the terms and conditions, including the cost of City facility and service extensions to the annexed area shall be calculated by the Public Works Director.

Finding: The proposed annexation is not a contract annexation.